

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Raymond & Linda Phillips,

Petitioners-Appellants,

v.

Warren County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 11-91-0249
Parcel No. 90-362-00-0070**

On December 2, 2011, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Raymond and Linda Phillips were self-represented. Warren County Attorney John Criswell is the legal representative for the Board of Review. County Assessor Brian Arnold represented it at hearing. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Raymond and Linda Phillips, owners of a residentially classified property located at 1341 Bronze Street, Norwalk, Iowa, appeal from the Warren County Board of Review regarding their 2011 property assessment. The January 1, 2011, assessment is allocated as follows: \$60,000 in land value and \$289,800 in improvement value for a total assessment of \$349,800.

The subject property is a one-story brick, single-family residence built in 1990. The improvements include 2598 square feet of above-grade finish; a full basement with 275 square-feet of finish; a 576 square-foot attached garage; a 288 square-foot wood deck; a 384 square-foot patio; and a 750 square-foot detached garage. The site is 2.96 acres.

The Phillipses protested their assessment to the Warren County Board of Review. On the

protest they contended there is an error in the assessment under Iowa Code section 441.21(1)(d). Their written statement was that “all properties in area were increased 3%. My property increased 16% with no change.” Essentially, the Phillipses assert their property is assessed for more than the value authorized by law under section 441.21(1)(b).

The Board of Review denied the protest; however, it then acted on its own initiative and lowered the values in the entire development.¹ The across-the-board decrease for the neighborhood resulted in a new assessed value for the subject property of \$320,900, allocated as \$60,000 to the land and \$260,900 to the improvements.

The Phillipses then appealed to this Board. They reasserted their claim of over assessment and claim the actual value is \$279,930, allocated as \$60,000 to the land and \$219,930 to the improvements.

Raymond Phillips submitted evidence in support of their position. He identified nineteen properties he considered comparable to the subject and narrowed that list to five properties, which he used to create an appraisal to establish market value. (Exhibit 2/Attachment A.)

Phillips testified that his property was recently annexed into Des Moines resulting in a change in services, as well as change in tax structure. He believes homes in Warren County are no longer viable comparables as a result; but rather, comparables must come from the City of Des Moines in Polk County. While we agree the annexation affected the subject property’s tax rates, we disagree that comparables must only come from within the city limits of Des Moines. Because this is a market value claim, comparable sales can be considered regardless of taxing jurisdiction.

Phillips provided a list of adjustments he used in his sales comparison analysis. He stated the adjustments were based on his knowledge of cost rather than based on market value. We recognize that cost may equal value in some cases; however cost may also be greater or less than market value. Without evidence from the market, these types of adjustments are questionable.

¹ Rationale for the decrease was explained at hearing.

Exhibit 2 is a spreadsheet of the subject property compared to five properties Phillips considered comparable. The addresses for the comparable properties are: 3510 Caulder Avenue, 3000 Druid Hill Drive, 4895 SE 40th Street, 6913 Star View Street, and 1403 Emma. All five properties are located within Des Moines city limits and in Polk County. Four of the properties have site sizes ranging from 0.30 to 0.32 acres compared to the subject's site size of 2.96 acres. Another property, 4895 SE 40th Street, is situated on a 4-acre site; however it is an "in-town" acreage whereas the subject is located in a rural development with other similarly sized neighboring sites.

Sale prices for the five properties range from \$140,000 to \$227,000. After adjustments, the values ranged from \$125,658 to \$240,550. Phillips "kicked out" the lowest sale (6913 Star View Street) because he "suspects it was not an arms-length transaction." In fact, the assessor print-out for this property, supplied by Phillips, does show the transaction was from the Federal National Mortgage Association (FNMA), which was likely acquired by them through foreclosure. We agree with Phillips that this sale would not likely represent market value.

According to the property record cards, we also note concerns with three other sales relied upon by Phillips. 3000 Druid Hill Drive sold in September 2010 from the Graham Family Trust. Phillips did not know if the purchaser was related to the Family Trust. We also note this property had a prior sale in 2007 which was \$69,000 higher than its 2010 sale price. 4895 SE 40th Street sold in May 2010 from Gary Huston to Donna Huston. Both are currently listed as the deed holders. Without verification, sales from trusts or sales between family members would not typically be considered normal.

Finally, the property record card for 1403 Emma Avenue indicates a deed transfer in the amount of \$180,000 in May 2010 from Kathryn Marasco to Joanna Weber. Prior to this deed transfer, there was a contract between Marasco and Weber in October 2010 for \$190,000. It appears the May

2010 transfer was a fulfillment of contract. Therefore the transfer of deed would be more reflective of the price paid in 2007 rather than a price paid in 2010.

The fifth property submitted by Phillips, located at 3510 Caulder Avenue, appears to be an arm's length transaction. However, we do not find this sale to be reasonably similar to Phillips property. It is a one-story home, built in 1961, on a 0.30 acre site, and features a swimming pool. The subject is a one-story home, built in 1990, on a 2.96 acre site, and does not have a swimming pool.

For the foregoing reasons, we do not find Phillips appraisal to be convincing or reliable and give it limited consideration.

Phillips also offered over 1100 properties that he labels as "comparable sales" in Des Moines and grouped by size, character, and valuation (Exhibit 4/Attachment C). We do not consider Exhibit 4 to actually include 1100 *comparable* properties. The properties range in living area from zero to over 7000 square feet. They were built from roughly the early 1900's to the early 2000's. Essentially, Phillips created a list of every sale in the southeast portion of Des Moines. We, therefore, give this no consideration.

Phillips offered an article from *The Des Moines Register*, "Home Values Drop in Most of DM Area," April 14, 2011. The article references all of Des Moines and Polk County and is not specific to either a competing area or the subject property itself. While we find this information supports Phillips opinion there has been a decline in the overall market, which was recognized by Polk County, we do not find it particularly persuasive in regards to the market value of his property and give it limited consideration.

Lastly, Phillips presented Attachment F/Exhibit 7 which outlines the net change from the 2010 to 2011 assessments for the properties in his neighborhood. This chart indicates his property was the only property to receive an increase in assessment in 2011, whereas all other neighborhood properties saw a decrease in their assessments.

Warren County Assessor Brian Arnold testified for the Board of Review. He acknowledged that Exhibit 7 accurately reflected that the subject property was the only property in the immediate neighborhood to receive an increase in value. He explained however, this was because an error was corrected on the sketch, the living area was corrected, and a wood deck area was added.

The Board of Review provided a property record card for the subject property from 2010 and 2011. The 2010 property record card shows a distorted sketch of the subject property and reports the total living area (TLA) as 1928 square feet. Arnold explained that during a revaluation in 2011, there appeared to be an error in the sketch and size calculations. The property was flagged and physically measured by the assessor's office to ensure accurate dimensions. The dimensions themselves were reasonably correct; however, because the home is designed on an angle, there was an error in the angle of some of the walls. After correcting this error, the TLA was changed to 2598 square feet. Phillips did not dispute this correction and acknowledged the 2010 sketch did not appear to be correct.

Arnold also explained that several other property owners in Phillips' neighborhood appealed to the Board of Review. In part, those owners believed the recent annexation into Des Moines was detrimental to their valuations because of the associated increase in tax rates. The Board of Review found this true, and believed the entire neighborhood should be adjusted to reflect this annexation rather than only those who appealed. The Board of Review subsequently denied all petitions from this neighborhood (including the subject property). It then directed the assessor to apply a 10% across-the-board reduction to reflect the annexation. This was completed by reducing the map factor from 1.00 to 0.90.

Arnold explained the reason the Phillipses property was the only property to see an increase in value was due to the correction in the sketch and TLA which more than offset the 10% reduction applied by the Board of Review for the effect of annexation.

Based on the foregoing, we find the preponderance of evidence does not demonstrate the subject property is assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277

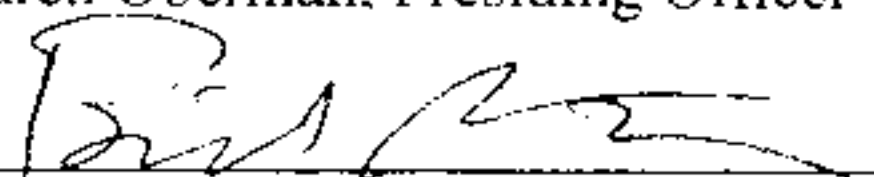
(Iowa 1995). Phillips offered an appraisal he completed, but we do not find the sales to be either representative of arm's length transactions or reasonably similar to the subject. A preponderance of the evidence does not support the claim that the property is assessed for more than authorized by law.

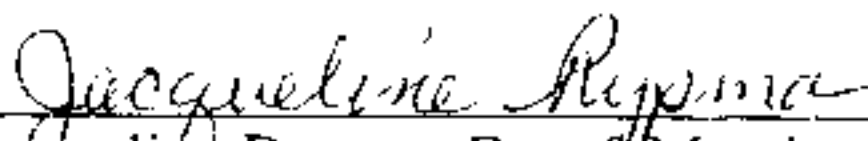
We therefore affirm the assessment of Raymond and Linda Phillipses property as determined by the Warren County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Raymond and Linda Phillipses property located at 1341 Bronze Street, Norwalk, Iowa, of \$320,900, as of January 1, 2011, set by Warren County Board of Review, is affirmed.

Dated this 27 day of JANUARY, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-27</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	